

COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD

NOTICE OF ADJUDICATION
NOTICE OF ADJUDICATORY HEARING

EFSB 18-03

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TOWN OF WOBURN
ENERGY FACILITIES SITING BOARD

Notice is hereby given that NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”), 247 Station Drive, Westwood, Massachusetts 02090, pursuant to G.L. c. 164, §§ 69K-69O, will file an Application with the Energy Facilities Siting Board (the “Siting Board”) on **August 2, 2018** for a Certificate of Environmental Impact and Public Interest (“Certificate”) with respect to: (1) the proposed, approximately 8.5-mile, 345-kilovolt (“kV”) underground electric transmission line between Eversource’s existing substation in the City of Woburn and New England Power Company d/b/a National Grid’s (“NEP”) existing substation in the Town of Wakefield (the “New Line”); and (2) related substation improvements (together, the “Project”). In this adjudication, the Siting Board will review Eversource’s Initial Petition, filed on July 5, 2018, and Eversource’s Application, to be filed on August 2, 2018.

The Application asks the Siting Board to issue, in the form of a composite permit, the following approvals for the Project:

1. Approval of a Grant of Location in public ways for the portion of the New Line located in the City of Woburn pursuant to G.L. c. 166, §§ 21, 22;
2. Approval of a Grant of Location in public ways for the portion of the New Line located in the Town of Stoneham pursuant to G.L. c. 166, §§ 21, 22;
3. Approval of a Grant of Location in public ways for the portion of the New Line located in the Town of Winchester pursuant to G.L. c. 166, §§ 21, 22;
4. Approval of the Company’s Notice of Intent/Order of Conditions from the Winchester Conservation Commission pursuant to G.L. c. 131, § 40; 310 CMR 10.00; and the Winchester Wetlands Bylaw (Chapter 13);
5. Approval of a road opening permit in the City of Woburn pursuant to G.L. c. 82A, § 1; 520 CMR 7.00; and the City of Woburn Bylaws (Title 12);
6. Approval of a road opening permit in the Town of Stoneham pursuant to G.L. c. 82A, § 1; 520 CMR 7.00; and the Town of Stoneham Bylaws (Section 13-15); and
7. Approval of a road opening permit in the Town of Winchester pursuant to G.L. c. 82A, § 1; 520 CMR 7.00; and the Town of Winchester Rules and Regulations Governing

Street Opening Permits and Grants of Location in the Town of Winchester, Massachusetts.

Procedural Deadlines

Those persons wishing to participate in this proceeding and/or comment on the Initial Petition and Certificate Application, are advised of the following procedural dates and deadlines in the Siting Board's review of this matter:

- **Thursday, August 2, 2018** – Eversource to file its Application.
- **Tuesday, September 4, 2018 – Deadline for: (1) persons wishing to be admitted as a party to this proceeding to file a Petition to Intervene or Participate with the Siting Board; and (2) submitting written comments to the Siting Board.** Persons that were previously granted intervenor or limited participant status in the underlying Petition to Construct proceeding, EFSB 15-04/D.P.U. 15-140/15-141, are automatically granted the same status in this proceeding without need of a new petition.

Persons wishing to be admitted as a party to the proceeding must file a Petition to Intervene with the Siting Board no later than Tuesday, September 4, 2018. Persons wishing to submit written comments must file such comments with the Siting Board by **September 4, 2018**. Petitions to Intervene or Participate and written comments must be: (1) filed in hard copy with the Siting Board at the address below; and (2) served upon Eversource's counsel, David S. Rosenzweig, Esq., Keegan Werlin LLP, 99 High Street, Suite 2900, Boston, MA 02110, at the same time as they are filed with the Siting Board. Petitions must satisfy the timing and substantive requirements of 980 CMR 1.05, the Siting Board's procedural rules, which can be found on the Siting Board's website at: <http://www.mass.gov/eea/energy-utilities-clean-tech/energy-facilities-siting-board/>.

In addition, Petitions to Intervene or Participate and written comments must also be filed with: (1) the Siting Board in electronic format, by e-mail attachment to dpu.efiling@mass.gov; and Robert.J.Shea@mass.gov; and (2) Eversource's counsel, Mr. Rosenzweig, at drosen@keeganwerlin.com. The text of the e-mail must specify: (1) the docket number of the proceeding (EFSB 18-03); (2) the name of the person or entity submitting the filing; and (3) a brief description of the document. The electronic filing should also include the name, title, telephone number, and e-mail address of a person to contact in the event of questions about the filing.

- **Tuesday, September 18, 2018 – Deadline for persons granted party status to issue written Information Requests to Eversource.**
- **Beginning Wednesday, October 24, 2018 – The Siting Board will conduct an adjudicatory hearing to review Eversource's Initial Petition and Application,**

beginning at 10:00 a.m. in Hearing Room B at the offices of the Energy Facilities Siting Board, One South Station, Boston, Massachusetts, 02110.

Description of the Project

The New Line portion of the Project, as previously approved by the Siting Board in EFSB 15-04/D.P.U. 15-140/15-141 on February 28, 2018, is to be constructed along the Primary Route in the municipalities of Woburn, Winchester, Stoneham and Wakefield. The route approved by the Siting Board is an underground route that starts at Eversource's Woburn Substation, crossing the northeastern portion of the substation property to enter Lake Avenue, heading generally northeast. The route then turns south onto Pickering Street before turning east onto Border Street where it crosses Main Street (Route 38) and enters Cross Street at the border of Woburn and Winchester. The route for the New Line continues on Cross Street (traversing under an elevated section of the MBTA Lowell Line) east into Winchester until its intersection with Washington Street. The route then follows Washington Street north and crosses into Woburn, then east along Montvale Avenue, and under Interstate Route 93 ("I-93") into Stoneham. The route continues east along Montvale Avenue to its intersection with Main Street. The route then continues north on Main Street until its intersection with Elm Street, and then heads east on Elm Street to the Wakefield town line. The Project terminates at the Wakefield Junction Substation.

Initial Petition and Application

Eversource has stated that it is unable to construct the New Line portion of the Project because, on May 1, 2018, the Woburn City Council denied Eversource's petition for a grant of location in public ways for the portion of the New Line to be located in Woburn. According to Eversource, given the Woburn City Council's denial of a required local permit, the exercise of the Siting Board's certificate authority is necessary in order for the Project to go forward as previously approved by the Siting Board. In addition, Eversource states that the Woburn City Council's denial of Eversource's grant of location Petition in Woburn precludes Eversource from obtaining road opening permits in Woburn that are also necessary to facilitate construction of the New Line. Eversource has also asserted that it has made good faith efforts to obtain the remaining permits necessary from Stoneham and Winchester, but that, as of the date of this Notice, Eversource has not yet obtained those permits. Consequently, Eversource has requested that, pursuant to G.L. c. 164, §§ 69K-69O, the Certificate be in the form of a composite of all individual local permits, approvals or authorizations that would otherwise be necessary for the construction and operation of the Project in Woburn, Winchester and Stoneham. As part of this proceeding, Eversource is not requesting the inclusion of any state permits or permits from the Town of Wakefield in any Certificate to be issued by the Siting Board.

On July 5, 2018, Eversource filed an Initial Petition for a Certificate with the Siting Board. On July 12, 2018, the Chairman of the Siting Board issued an order providing that the Siting Board would: (1) accept Eversource's Initial Petition for a Certificate; (2) consolidate

Eversource's Initial Petition with its Application; (3) defer a decision on the merits of the Initial Petition; and (4) adjudicate Eversource's Initial Petition and Application concurrently.

During the course of this proceeding, the Siting Board will review Eversource's Initial Petition to determine whether Eversource is prevented from constructing the Project because: (1) there are inconsistencies among resource use permits issued for the Project; (2) a nonregulatory issue or condition has been raised or imposed by a state or local agency; (3) a state or local agency has imposed a burdensome condition or limitation that has a substantial impact on the Siting Board's responsibilities as set forth in G.L. c. 164, § 69H; or (4) the facility cannot be constructed due to disapproval, condition, or denial by a local government. See G.L. c. 164, § 69K.

The Siting Board will review Eversource's Application to determine: (1) the need for the facility to meet the energy requirements of the applicant's market area taking into account wholesale bulk power or gas sales or purchases or other co-operative arrangements with other utilities and energy policies as adopted by the Commonwealth; (2) the compatibility of the facility with considerations of environmental protection, public health, and public safety; (3) the extent to which construction and operation of the facility will fail to conform with existing state and local laws, ordinances, by-laws, rules, and regulations and reasonableness of exemption thereunder, if any, consistent with the implementation of the energy policies contained in G.L. c. 164 to provide a necessary energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost; and (4) the public interest, convenience and necessity requiring construction and operation of the facility. See G.L. c. 164, § 69O.

A copy of the Initial Petition and Application may be inspected at the following locations:

- Energy Facilities Siting Board, One South Station, Boston, MA 02110;
- Woburn Public Library, 36 Cummings Park Drive, Woburn, MA 01801;
- Woburn City Clerk, Woburn City Hall, 10 Common Street, Woburn MA 01801;
- Winchester Public Library, 80 Washington Street, Winchester, MA 01890;
- Winchester Town Clerk, Town Hall, 71 Mt. Vernon Street, 1st Floor, Winchester, MA 01890;
- Stoneham Public Library, 431 Main Street, Stoneham, MA 02180; and
- Stoneham Town Clerk, Town Hall, 35 Central Street, 1st Floor, Stoneham, MA 02180.

The documents for this proceeding may also be accessed on the Siting Board's website at: <https://eeasonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber>. Enter docket number "EFSB18-03" with no spaces.

Any person desiring additional information regarding the Notice, including information regarding intervention or participation in the proceeding should contact the Siting Board through the Presiding Officer at the following address:

Robert J. Shea, Presiding Officer
Energy Facilities Siting Board
One South Station
Boston, Massachusetts 02110
(617) 305-3525
Robert.j.shea@mass.gov

Date: July 26, 2018

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

Application of NSTAR Electric Company)
d/b/a Eversource Energy for a Certificate of)
Environmental Impact and Public Interest)

EFSB 18-03

**APPLICATION OF NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY
FOR A CERTIFICATE OF ENVIRONMENTAL IMPACT AND PUBLIC INTEREST
PURSUANT TO G.L. c. 164, §§ 69K-69O**

I. INTRODUCTION

NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) files this Application (the “Application”) for a Certificate of Environmental Impact and Public Interest (the “Certificate”) from the Energy Facilities Siting Board (the “Siting Board”), pursuant G.L. c. 164, §§ 69K-69O and 980 C.M.R. 6.00 et seq.¹ As described below, the Application is necessary because of the May 1, 2018 denial by the Woburn City Council of Eversource’s petition for a grant of location in the City of Woburn. Eversource requests a certificate from the Siting Board under G.L. c. 164, § 69K,² representing a composite of all remaining local permits, approvals, licenses, certificates or other forms of authorization that would otherwise be necessary in relation to the proposal by Eversource and New England Power Company d/b/a National Grid (“NEP”) (together, the “Companies”) to construct and operate: (1) a new approximately 8.5-mile, 345-kilovolt (“kV”) underground electric transmission line (the “New Line”) between Eversource’s existing substation in Woburn (“Woburn Substation”) and NEP’s existing

¹ A draft of Eversource’s proposed Certificate is provided as Attachment A.

² G.L. c. 164, § 69K expressly provides that a certificate “shall be in the form of a composite of all individual permits, approvals or authorizations which would otherwise be necessary for the construction and operation of the facility” (emphasis added).

substation in Wakefield (“Wakefield Junction Substation”); and (2) related substation improvements (the “Project”). The Project was initially approved by the Siting Board on February 28, 2018 in NSTAR Electric Company d/b/a Eversource Energy and New England Power Company d/b/a National Grid, EFSB 15-04/D.P.U. 15-140/15-141 (2018) (“Eversource/NEP”). A copy of the Siting Board’s Final Decision is provided herewith as Attachment B.

This Application is filed pursuant to the July 12, 2018 determination of the Chairman of the Siting Board deferring consideration of Eversource’s July 5, 2018 Initial Petition in this matter and authorizing the submission of an Application by Eversource. NSTAR Electric Company d/b/a Eversource Energy, EFSB 18-03, Determination on Initial Petition for Certificate of Environmental Impact and Public Interest (July 12, 2018).

II. PROJECT DESCRIPTION

The New Line portion of the Project, as approved by the Siting Board, is to be constructed along the Primary Route in the municipalities of Woburn, Winchester, Stoneham and Wakefield. Eversource/NEP at 155. The Siting Board-approved route is an underground route that starts at the Woburn Substation, crossing the northeastern portion of the substation property to enter Lake Avenue, heading generally northeast. Eversource/NEP at 43. The route then turns south onto Pickering Street before turning east onto Border Street where it crosses Main Street (Route 38) and enters Cross Street at the border of Woburn and Winchester. Id. The route for the New Line continues on Cross Street (traversing under an elevated section of the MBTA Lowell Line) east into Winchester until its intersection with Washington Street. Id. The route then follows Washington Street north and crosses into Woburn, then east along Montvale Avenue, and under Interstate Route 93 (“I-93”) into Stoneham. Id. The route continues east

along Montvale Avenue to its intersection with Main Street. Id. The route then continues north on Main Street until its intersection with Elm Street, and then heads east on Elm Street to the Wakefield town line. Id. The route follows Albion Street east/northeast to Broadway and following that roadway north, then crossing the MBTA Haverhill Line railroad tracks at grade and continuing along Broadway to its intersection with an inactive railroad ROW owned by the MBTA in Wakefield. Id. The route continues north in Wakefield on the MBTA Railroad ROW for approximately one mile to its intersection with Salem Street. Id. The route turns east on Salem Street, south onto Montrose Avenue, and lastly southeast onto the Wakefield Junction Substation driveway. Id.

The New Line will consist of three 3,500-kcmil cables, each insulated with cross-linked polyethylene ("XLPE") and placed within high-density polyethylene ("HDPE") conduits within a concrete duct bank. Eversource/NEP at 76, n.63. The duct bank will consist of four approximately 8-inch-diameter HDPE conduits, as well as two 4-inch-diameter polyvinyl chloride ("PVC") conduits, and two 2-inch-diameter PVC conduits to carry communications lines and ground continuity conductors. Id. The underground line construction process generally includes four phases: (1) manhole installation; (2) trenching and duct bank installation; (3) cable pulling, splicing and testing; and (4) final pavement restoration. Id. at 75. The phases will be conducted in sequence at each location so that several phases of construction will be ongoing simultaneously along various sections of the route. Id. Among various mitigation measures committed to by the Companies and required by the Siting Board, Best Management Practices ("BMPs") will be implemented to minimize and mitigate potential impacts to the surrounding area and sensitive resources along the route. Id. at 115, 128.

Once constructed, the Project will help address critical reliability-based transmission needs in the northeastern sub-region of Greater Boston. Eversource/NEP at 2, 18.³

III. PROCEDURAL BACKGROUND

A. The Siting Board Proceeding

On September 25, 2015, the Companies filed three petitions with the Siting Board and the Department of Public Utilities (the “Department”) relating to the Project. In these petitions, the Companies sought: (1) approval of the Project pursuant to G.L. c. 164, § 69J (“Siting Petition”); (2) approval of the Project pursuant to G.L. c. 164, § 72 (“Section 72 Petition”); and (3) individual and comprehensive exemptions from the Zoning Ordinance of the City of Woburn, and the Zoning Bylaw, Chapter 190, of the Code of the Town of Wakefield, for the Project pursuant to G.L. c. 40A, § 3 (the “Zoning Petition”). The Siting Petition, Section 72 Petition, and the Zoning Petition were consolidated and referred to the Siting Board for review on December 2, 2015. These proceedings were docketed as EFSB 15-04/D.P.U. 15-140/15-141. After extensive discovery, 13 days of evidentiary hearings, briefing, and a full Siting Board meeting, the Siting Board voted to approve the Project with conditions. A Final Decision approving the Project was issued on February 28, 2018, finding that the proposed Project is needed to provide a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost.

B. Massachusetts Environmental Policy Act Process

Concurrent with the Siting Board’s proceeding, the Project was also reviewed under the Massachusetts Environmental Policy Act (“MEPA”) (G.L. c. 30, §§ 61-62H). On October 7, 2015, the Companies submitted an Environmental Notification Form (“ENF”) to the Secretary of

³ No parties contested the need for the Project in the underlying proceeding. Id. at 17.

the Executive Office of Energy and Environmental Affairs (“EEA”). On November 6, 2015, the Secretary concluded that the ENF “sufficiently defined the natural and general elements of the project for the purposes of MEPA review and demonstrated that the project’s environmental impacts will be avoided, minimized and/or mitigated to the extent practicable.” Exh. EFSB-G-1(2) at 8.⁴ The Secretary concluded that no further MEPA review was required and that the Project did not require an Environmental Impact Report. Id.

C. Woburn City Council

On December 15, 2017, Eversource filed a petition with the Woburn City Council pursuant to G.L. c. 166, § 22, for a grant of location in public ways (“GOL Petition”), to allow for the construction and installation of the New Line with appurtenant communication/signal wires for a total distance of approximately 1.4 miles (7,230 feet) in Woburn: beneath Lake Avenue (approximately 1,485 linear feet), Pickering Street (approximately 475 linear feet), Border Street (approximately 540 linear feet), Cross Street (approximately 365 linear feet), Washington Street (approximately 2,275 linear feet), and Montvale Avenue (approximately 2,090 linear feet). This route comprises the same route approved by the Siting Board in the Eversource/NEP Final Decision.

The Woburn City Council held four separate public hearings on the GOL Petition: (1) February 20, 2018; (2) March 20, 2018; (3) April 17, 2018; and (4) May 1, 2018. In each instance, Eversource responded to various questions relating to the Project from City Councilors and members of the public. On May 1, 2018, the City Council denied Eversource’s GOL Petition.

⁴ As stated in the Company’s Initial Petition, Eversource requests that official notice be taken of the evidentiary record in the underlying proceeding. See 980 C.M.R. 1.06. All citations in this Application, unless specifically indicated otherwise, are to exhibits in that docket.

D. Other Permits

As of the date of this Application, Eversource has filed for the remainder of its various state and local permits, with the exception of local street opening permits, as follows:

1. Massachusetts Bay Transportation Authority (“MBTA”) for a new permanent easement pursuant to G.L. c. 161A, § 3(m). The Company’s application was filed on April 21, 2018, and was approved by the MBTA on April 25, 2018.
2. Massachusetts Water Resources Authority (“MWRA”) Section 8M Permit. The Company’s application was filed on January 8, 2018, and remains under review at this time.
3. Massachusetts Department of Transportation Highway Access and Rail Crossing Permits pursuant to G.L. c. 81, § 21; G.L. c. 85, § 2; and 720 C.M.R. 13.00 et seq. The Company’s application was filed on April 27, 2018 and remains under review at this time.
4. Stoneham Conservation Commission Order of Conditions on the Company’s Notice of Intent pursuant to the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40, and the Stoneham Bylaws (Section 11). The application was filed on April 11, 2017 and an Order of Conditions was issued on May 17, 2017. The Conservation Commission amended the Order of Conditions on June 14, 2017 and an Amended Order of Conditions was issued on June 27, 2017. Because the Order of Conditions is final and non-appealable, the Company is not seeking to have this permit included in the Certificate that the Company is requesting in this proceeding.
5. Woburn Conservation Commission Order of Conditions on the Company’s Notice of Intent pursuant to the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40, and the Woburn Wetlands Ordinance (Title VII). The Company’s application was filed on April 5, 2017 and an Order of Conditions was issued on May 31, 2017.
6. Winchester Conservation Commission Order of Conditions on the Company’s Notice of Intent pursuant to the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40, and the Winchester Wetlands Bylaw (Chapter 13). The Company’s

application was filed on April 20, 2018. As of the date of this Application, no Order of Conditions has been issued by Winchester.⁵

7. Stoneham Board of Selectmen approval of a Grant of Location in public ways for the portion of the New Line located in the Town of Stoneham, pursuant to G.L. c. 166, §§ 21-22. The Company's application was filed on December 9, 2017. As of the date of this Application, no formal action has been taken by Stoneham.
8. Woburn City Council approval of a Grant of Location in public ways for the portion of the New Line located in the City of Woburn, pursuant to G.L. c. 166, §§ 21-22. The Company's application was filed on December 15, 2017, and was subsequently denied by the Woburn City Council on May 1, 2018.
9. Winchester Board of Selectmen approval of a Grant of Location in public ways for the portion of the New Line located in the Town of Winchester, pursuant to G.L. c. 166, §§ 21-22. The Company's application was filed on April 13, 2018. As of the date of this Application, no formal action has been taken by Winchester.
10. Street Opening Permits in Stoneham, Winchester and Woburn from the relevant Department of Public Works pursuant to G.L. c. 82A, § 1; 520 C.M.R. 7.00; local bylaws, rules, and regulations. The Company is unable to apply for street opening permits because its various applications for grants of location have either been denied (Woburn), or have not yet been ruled upon (Winchester and Stoneham). Absent approved grants of location, it would be futile for the Company to apply for a street opening permit in each of these communities.

With respect to the state permits listed above that are necessary to facilitate construction of the Project as approved by the Siting Board, the Company anticipates being able to secure the necessary permits from each state agency. Therefore, the Company is not requesting at this time that any state permits be included in the Certificate that the Company is seeking from the Siting Board in this proceeding.

⁵ The Winchester Conservation Commission held a public hearing on the Company's application on May 22, 2018, which was continued to June 12, 2018. On June 12, 2018, at the Winchester Conservation Commission's request, the public hearing was further continued to June 26, 2018 in order for the Winchester Conservation Commission to engage a third-party reviewer relative to Eversource's Notice of Intent. On June 8, 2018, the Company provided responses to several questions asked by the Winchester Conservation Commission regarding the impacts of the New Line as it passes under the Aberjona River. On June 26, 2018, the Winchester Conservation Commission continued the public hearing to July 24, 2018 for additional time to engage the third-party reviewer. The Company will continue to work in good faith with the Winchester Conservation Commission.

Regarding the local permits listed above that the Company has not yet obtained in final and non-appealable form, as set forth in the Company's Initial Petition, the Company is, and has been, working diligently and in good faith to secure the local permits needed to construct the Project. Nonetheless, as of the date of this Application, the Company has not yet received all of the necessary permits in Stoneham, Winchester and Woburn. An Affidavit of Michael Hager, Project Manager for Eversource, is provided herewith as Attachment C, attesting to the Company's good faith efforts to obtain the remaining local permits required to construct the Project.

E. Initial Petition for a Certificate⁶

On July 5, 2018, Eversource filed its Initial Petition seeking a Certificate from the Siting Board pursuant to G.L. c. 164, §§ 69K through 69O. In Eversource's Initial Petition, it alleged that a certificate by the Siting Board was necessary and appropriate because of: (1) inconsistencies among resource use permits issued by state or local agencies (i.e., the Woburn City Council); (2) the imposition of a non-regulatory issue by the Woburn City Council; (3) the imposition of a burdensome condition (i.e., denial) by the Woburn City Council; and (4) the Woburn City Council's rejection of Eversource's GOL Application. See G.L. c. 164, § 69K; 980 C.M.R. 6.02(2)(c)-(f). In the July 12, 2018 determination on the Initial Petition, the Chairman of the Siting Board deferred consideration of the Initial Petition and authorized Eversource to file an Application for a Certificate. Accordingly, Eversource now files this Application pursuant to the Siting Board's statutory and regulatory powers under G.L. c. 164, §§ 69K-69O and 980 C.M.R. 6.00 et seq.

⁶ The Initial Petition, and the Attachments thereto, set forth in detail, pursuant to G.L. c. 164, § 69K, the various grounds and bases for Eversource to seek the Certificate. Eversource incorporates by reference its Initial Petition and the Attachments into this Application.

IV. LEGAL AUTHORITY/STANDARD OF REVIEW

A. Siting Board Authority

The Siting Board is the preeminent state agency in Massachusetts charged by the Legislature with overseeing and permitting the siting, construction and operation of jurisdictional energy facilities in the Commonwealth and ensuring a reliable supply of energy at the lowest possible cost and with the least environmental impact. See G.L. c. 164, §§ 69G et seq.; see, e.g., Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd., 457 Mass. 663, 667 (“Alliance II”); Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd., 448 Mass 45, 46-47 (2006) (“Alliance I”); City Council of Agawam v. Energy Facilities Siting Bd., 437 Mass. 821, 822 (2002); Box Pond Ass’n. v. Energy Facilities Siting Bd., 435 Mass. 408, 409-10 (2001); Town of Andover v. Energy Facilities Siting Bd., 435 Mass. 377, 378-79 (2001); see also Boston Edison Co. v. Town of Bedford, 444 Mass. 775, 781 (2005); Pereira v. New England LNG Co., Inc., 364 Mass. 109, 121 (1973). In accordance with this broad authority, the Siting Board is the first state agency to issue a permit for a proposed facility (G.L. c. 164, § 69J); is exempt from complying with the requirements of MEPA (G.L. c. 164, § 69I); and has express eminent domain powers pursuant to G.L. c. 164, § 69R. Further, the Siting Board has been delegated the statutory authority to issue Certificates of Environmental Impact and Public Interest for jurisdictional energy facilities that have been unable to obtain other state or local permits, approvals, licenses or other forms of authorizations. G.L. c. 164, §§ 69K-69O. Accordingly, the Legislature has provided the Siting Board with comprehensive powers to ensure that it is able to implement its statutory mandate of a reliable energy supply for the benefit of consumers and businesses in Massachusetts.

The authority to issue the Certificate is a critical component of the Siting Board's jurisdiction over energy infrastructure projects in the Commonwealth. It represents an explicit recognition by the Legislature that energy facilities that satisfy the Siting Board's statutory mandate under G.L. c. 164, §§ 69J-69O should not be thwarted by the contrary actions of other state or local governmental bodies. See Alliance II, 457 Mass. at 677-678. Notably, the Legislature provided that no state or local government agency can prevent the construction or operation of a facility for which the Siting Board has granted a Certificate, as follows:

no state or local government shall require any approval, consent, permit, certificate or condition for the construction, operation or maintenance of the facility with respect to which the [C]ertificate is issued and no state agency or local government shall impose or enforce any law, ordinance, by-law, rule or regulation nor take any action nor fail to take any action which would delay or prevent the construction, operation or maintenance of such facility... A [C]ertificate, if issued, shall be in the form of a composite of all individual permits, approvals, or authorizations which would otherwise be necessary for the construction and operation of the facility and that portion of the [C]ertificate which relates to subject matters within the jurisdiction of a state or local agency shall be enforced by said agency under the other applicable laws of the commonwealth as if it had been directly granted by said agency.

G.L. c. 164, § 69K (emphasis added); see also 980 C.M.R. 6.05(3). Accordingly, several critical principles are plainly established with respect to the Certificate issued by the Siting Board under Section 69K:

- (1) the Certificate **shall** be a composite of all remaining permits, licenses, approvals or authorizations that would otherwise be necessary for the subject facility;
- (2) despite any other law to the contrary, no state or local agency **shall** require an approval, permit, license, consent or other form of authorization regarding the facility for which the Certificate is issued;
- (3) no state or local agency **shall** enforce or apply any law, ordinance, bylaw, rule or regulation to delay or prevent construction or operation of the facility once the Certificate is issued; and
- (4) a state or local agency **shall** enforce the Certificate under applicable laws in the same manner as if the agency had granted the approval itself.

See Alliance II, 457 Mass. at 677-79.

This comprehensive grant of regulatory power is an essential feature of the Legislature's establishment of the Siting Board as the chief energy-facility siting agency in the Commonwealth with superior and overarching authority to ensure that needed, least-cost and least-environmental-impact facilities materialize for the benefit of the citizens of Massachusetts in a timely manner.⁷ See, e.g., Alliance II, 457 Mass. at 668; Alliance I, 448 Mass at 46-47; Agawam, 437 Mass. at 822; Box Pond, 435 Mass. at 409-10; Town of Andover, 435 Mass. at 378-79; Boston Edison Co., 444 Mass. at 781; Pereira, 364 Mass. at 121.

B. Standard of Review

The Siting Board has well-established standards that apply to its consideration of an Application for a Certificate. Pursuant to G.L. c. 164, § 69O and 980 C.M.R. 6.05(3)(a) through (d), the Siting Board shall make its decision in writing and shall include therein its findings and opinions with respect to the following:

- (1) the need for the facility to meet the energy requirements of the applicant's market area taking into account wholesale bulk power or gas sales or purchases or other cooperative arrangements with other utilities and energy policies as adopted by the commonwealth;
- (2) the compatibility of the facility with considerations of environmental protection, public health and public safety;
- (3) the extent to which construction and operation of the facility will fail to conform with existing state and local laws, ordinances, by-laws, rules and regulations and reasonableness of exemption thereunder, if any, consistent with the implementation of the energy policies contained in this chapter to provide a necessary energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost; and
- (4) the public interest, convenience and necessity requiring construction and operation of the facility.

See Cape Wind Associates, LLC, EFSB 07-8, at 12-13 ("Cape Wind"); Colonial Gas Company

⁷ In that regard, the Legislature also set forth that final decisions of the Siting Board (including those in a certificate proceeding) are subject to a single appeal directly to the Supreme Judicial Court (the "SJC"), without necessitating the delay and expense that would be associated with a series of appeals/challenges to lower courts or other administrative bodies. G.L. c. 164, § 69P.

d/b/a KeySpan Energy Delivery New England, EFSB 06-1, at 8 (2007) (“KeySpan”); IDC Bellingham LLC, 13 DOMSB 1 (2001); Berkshire Power Development, Inc., 8 DOMSB 274, 290-91 (1999).

In conducting its certificate proceeding, the Siting Board: (1) reviews the decision from the underlying Siting Board Section 69J facility proceeding; and (2) determines the extent to which new information has been developed or the circumstances of a project have changed in the intervening period. See Cape Wind at 13; KeySpan at 12. In addition, with respect to any issues raised by the state or local agency whose actions are the subject of the Application, the Siting Board ensures that such issues have been addressed in a comprehensive manner, either in its review of the facility under G.L. c. 164, § 69J and/or in its review under G.L. c. 164, § 69K. See Cape Wind at 13; KeySpan at 12. If the issues raised by the state or local agency have already been comprehensively addressed by the Siting Board in prior proceedings, they are not relitigated as part of the Section 69K certificate review. Alliance II, 457 Mass. at 694, n.42; Agawam, 437 Mass. at 822; see KeySpan at 12; Berkshire Power Development, 8 DOMSB 274, at 291 (1999).

The Siting Board’s regulations at 980 C.M.R. 6.03(3) list the required contents of the Application. Consistent with this regulation, Eversource provides the following information

with this Application:⁸

- (1) A 1:24,000 scale United States Geologic Survey topographical map with transparent overlays showing the location of the Project (980 C.M.R. 6.03(d) (see Attachment D));
- (2) A set of other maps and aerial photographs (as originally provided in Eversource's and NEP's Section 69J Petition Analysis) depicting the route and surrounding areas (980 C.M.R. 6.03(3)(e)-(h) (see Attachment E));
- (3) A copy of each study that Eversource has conducted regarding the environmental impacts of the Project (980 C.M.R. 6.03(3)(i)) (see Attachment F (Eversource's and NEP's Section 69J Petition Analysis)),⁹
- (4) A statement of the reasons for the choice of route (980 C.M.R. 6.03(j)) (see Route Selection portion of Attachment B);
- (5) A list of all licenses, permits and approvals already obtained for the Project (980 C.M.R. 6.03(3)(k)) (see Section III.D, above);
- (6) A list of all other licenses, permits and approvals expected to be required for the Project (980 C.M.R. 6.03(3)(l)) (see Section III.D, above);
- (7) A statement setting forth Eversource's need for the Certificate (980 C.M.R. 6.03(3)(m)) (see the Company's Initial Petition and Section VII, below); and
- (8) A copy of all decisions by the Woburn City Council regarding the Project (980 C.M.R. 6.03(3)(n)) (see Attachment G (City Council Denial)).

A complete Table of Attachments to the Company's Application, as well as its Initial

⁸ Several provisions of the Siting Board's regulations refer to the need to provide information relating to the Company's electric long-range forecast and other evidence of the need for the Project. See 980 C.M.R. 6.03(3)(a), (b), (c), and (o). The Siting Board has found that, pursuant to Chapter 164 of the Acts of 1997 (the Restructuring Act) and the Department's Order in D.T.E. 98-84A, Massachusetts electric companies are now exempt from the requirements of G.L. c. 164, § 69I. New England Power Company d/b/a National Grid, 20 DOMSB 129, EFSB 13-2/D.P.U. 13-151/13-152, at 6, n.4 (2014); New England Power Company d/b/a National Grid, 20 DOMSB 1, EFSB 12-1/D.P.U. 12-46/12-47, at 5, n.1 (2014); Order Exempting Electric Companies From Any and All of the Provisions of G.L. c. 164, § 69I, D.T.E. 98-84/EFSB 98-5, at 5 (2003). Thus, the Siting Board no longer considers whether the proposed transmission facilities are consistent with a recently approved long-range forecast. Id. In any event, the need for, and cost superiority of, the Project were extensively documented and confirmed in the underlying proceeding by the Siting Board and were based in significant part on the Greater Boston Updated Transmission Needs Assessment that was issued by ISO-New England ("ISO-NE") in January 2015. Eversource/NEP at 17-18.

⁹ Attachment F to this Application contains a copy of the ENF submitted to MEPA by Eversource and NEP (see Exh. JP-2, Appendix 7-1). The following Attachments from Eversource's Initial Petition are incorporated herein by reference: Attachment B (Woburn GOL petition application); Attachment H (Stoneham GOL petition application); Attachment I (Winchester GOL petition application); Attachment J (Winchester NOI application).

Petition is provided below:

Table 1: Table of Attachments

Application

Label	Name
Attachment A	Proposed Certificate
Attachment B	Final Decision in EFSB 15-04/D.P.U. 15-140/15-141
Attachment C	Affidavit of Michael Hager, Project Manager for Eversource
Attachment D	1:24,000 scale USGS topographical map
Attachment E	Set of other maps and aerial photographs
Attachment F	Eversource's and NEP's Siting Board Section 69J Petition Analysis
Attachment G	Woburn City Council Denial of Eversource GOL Petition (May 1, 2018)

Initial Petition¹⁰

Label	Name
Attachment A	EEA Secretary's Certificate on Companies' MEPA ENF
Attachment B	Eversource GOL Petition Application to Woburn
Attachment C	Eversource Presentation to Woburn City Council (February 20, 2018)
Attachment D	Eversource Presentation to Woburn City Council (March 20, 2018)
Attachment E	Eversource Presentation to Woburn City Council (April 17, 2018)
Attachment F	Eversource Presentation to Woburn City Council (May 1, 2018)
Attachment G	Woburn City Council Denial of Eversource GOL Petition (May 1, 2018)
Attachment H	Eversource GOL Petition Application to Stoneham
Attachment I	Eversource GOL Petition Application to Winchester
Attachment J	Eversource NOI Application to Winchester

¹⁰ As noted above, Eversource incorporates by reference its Initial Petition and the Attachments thereto into this Application.

Label	Name
Attachment K	Woburn DPW Superintendent's April 30, 2018 Letter to Woburn City Council

V. SITING BOARD APPROVAL OF THE PROJECT

As summarized above, on September 25, 2015, the Companies filed petitions pursuant to G.L. c. 164, §§ 69J, 72, and G.L. c. 40A, § 3 with the Siting Board and the Department requesting approval to construct and operate the Project. In conducting its consolidated review of the three petitions, the Siting Board held 13 days of evidentiary hearings beginning on September 21, 2016 and concluding on November 2, 2016. Eversource/NEP at 7. The evidentiary record was vast, containing a total of approximately 950 exhibits, including the Companies' petitions, prefiled direct and rebuttal testimony and exhibits, responses to Information Requests and Record Requests, and hearing exhibits. The Town of Wakefield filed its initial brief on January 6, 2017; the Companies, and the Towns of Stoneham and Winchester filed initial briefs on January 16, 2017. Id. The Companies and the Towns of Stoneham, Winchester, and Wakefield filed reply briefs on January 27, 2017. Id. The City of Woburn did not file either an initial brief or a reply brief. See id. The Siting Board distributed a Tentative Decision on February 14, 2018, and set a written comment deadline of February 22, 2018. Id. Written Comments were submitted by the Companies; Senator Jason Lewis, Senator Patricia Jehlen and Representative Michael Day, all of whom signed one joint comment letter; the towns of Wakefield, Winchester, and Stoneham; the City of Woburn; and Michael Curley, a Winchester resident and intervenor. Id. The Siting Board held a public meeting to consider and

vote on the Tentative Decision on February 27, 2018. Id. At the close of its February 27th meeting, the Siting Board voted to approve the Project subject to certain conditions. Id.¹¹

In Eversource/NEP, consistent with the standards set forth in G.L. c. 164, § 69J, the Siting Board made explicit findings on need, cost and alternatives, route selection, and environmental impacts concerning the Project. With respect to the need for the Project, the Siting Board found that additional energy resources are needed to maintain a reliable supply of electricity to the Greater Boston Area. Eversource/NEP at 18. Regarding project alternatives, the Siting Board evaluated two transmission alternatives (the Project and a three-project alternative), as well as non-transmission alternatives such as energy efficiency, demand response, energy storage and energy generation. Id. at 19. The Siting Board also evaluated two types of underground transmission line cable technologies for the Project: (1) a high voltage extruded dielectric (“HVED”) cable system; and (2) a high-pressure fluid-filled pipe-type cable (“HPFF-PTC”) system. Id. at 20. Based upon the record evidence, the Siting Board concluded that the Project, including the use of an HVED cable system, is superior to other project alternatives identified given considerations of reliability, cost and environmental impact. Id. at 34.

On route selection, the Companies presented the Siting Board with a comprehensive analysis of alternatives, including six initial candidate routes, each connecting the Woburn Substation and the Wakefield Junction Substation. Eversource/NEP at 39-40. The Companies also considered three additional routes proffered during the proceeding by Mr. Curley, an intervenor in the proceeding, and the Towns of Winchester and Stoneham. Id. at 41. Based on a systematic review of the Companies’ route selection process and the proposed routing

¹¹ The Siting Board’s decision in Eversource/NEP was appealed to the SJC by the Town of Winchester and the Town of Stoneham. The towns’ appeals are currently pending. Town of Stoneham v. Energy Facilities Siting Board, Case No. SJ-2018-0136; Town of Winchester v. Energy Facilities Siting Board, Case No. SJ-2018-0141.

alternatives, the Siting Board found that the Companies: (1) developed and applied a reasonable set of criteria for identifying and evaluating alternative routes in a manner that ensures that they have not overlooked or eliminated any routes that are clearly superior to the proposed project; and (2) identified a range of practical transmission line routes with some measure of geographic diversity. Id. at 71. Ultimately, the Siting Board concluded that the Project and the New Line will be sited in locations that minimize cost and environmental impacts. Id.

The Siting Board then performed an extensive analysis of the Project's environmental impacts along both the Primary and Noticed Alternative Routes to evaluate whether such environmental impacts were properly minimized, consistent with ensuring reliability and minimizing costs. Eversource/NEP at 82-135. In so doing, the Siting Board reviewed impacts to land use, wetlands and water resources, traffic and transportation, noise, visual impacts, magnetic fields, safety, air and subsurface contamination associated with both the construction and operation of the Project. Id. at 72-134. Based on a review of the comprehensive factual record, the Siting Board found that the Project constructed along the Primary Route would achieve an appropriate balance among conflicting environmental concerns as well as among environmental impacts, reliability, and cost. Id. at 136.

VI. WOBURN CITY COUNCIL DECISION

As described above, Eversource requires various state and local permits in order to commence construction on the Project, a full list of which has been provided with the Initial Petition and in Section III.D, above. As described in further detail below, Eversource was denied a grant of location by the Woburn City Council. Simply stated, without this grant of location, the Project cannot be constructed or completed as approved by the Siting Board.

The Woburn City Council's denial, provided herewith as Attachment G, sets forth various reasons for its decision, including concerns that: (1) the New Line would impede or prevent future use of the public ways; (2) the City Council must protect the "integrity of the City infrastructure from damage that may occur during the proposed construction of the transmission line which would be significantly hindered and/or problematic if such repairs and maintenance are necessary in the proximity" of the transmission line; (3) various construction-related impacts would result from the Siting Board-approved route for the New Line; and (4) the Project could expose residents to electric and magnetic fields ("EMF"). See generally, Attachment G.

Prior to receiving the denial, Eversource worked diligently and in good faith to provide the Woburn City Council, and the Superintendent of the Department of Public Works ("DPW") and his staff, details and information that would demonstrate that the New Line could be properly constructed and positioned to minimize impacts, to allow reasonable access to the City's existing infrastructure and to avoid adverse health effects. Throughout the Woburn City Council's review process, the Company responded to various requests for information, whether from the City Council, the DPW or the general public, on all of these topics. On April 17, 2018, the Company provided to the DPW updates regarding the Superintendent's questions, including updates regarding the feasibility of moving the duct bank off of Lake Avenue; updates regarding the feasibility study of utility relocations due to manhole placements on Pickering Street; a geotechnical report; and test pit information. Following this update, on April 25, 2018, the Company provided updated project plans as requested by the Woburn City Council for posting to the public and again met with the Superintendent of DPW to discuss the Project. The Superintendent requested extensive additional information that would demonstrate that the New Line could be positioned to allow clear access and provide reasonable clearances away from the

City's infrastructure in, among other streets, Montvale Avenue, Washington Street and Lake Avenue. Eversource requested additional time to provide this detailed information. On April 30, 2018, the Superintendent then sent a letter to the Woburn City Council suggesting that the City Council allow Eversource additional time to provide additional data in order to enable the Superintendent to evaluate the New Line and to provide his recommendation. Despite this request by the Superintendent, and the good faith efforts of the Company to provide additional information, the City Council denied Eversource's GOL Petition the next day.

VII. ANALYSIS

A. G.L. c. 164, § 69O

The Siting Board's authority with regard to certificates is established under G.L. c. 164, §§ 69K-69O and 980 C.M.R. 6.00 et seq. As set forth above, with regard to an application for a certificate filed pursuant to G.L. c. 164, § 69O, the Siting Board makes its decision according to the following:

- (1) the need for the facility to meet the energy requirements of the applicant's market area taking into account wholesale bulk power or gas sales or purchases or other cooperative arrangements with other utilities and energy policies as adopted by the commonwealth;
- (2) the compatibility of the facility with considerations of environmental protection, public health and public safety;
- (3) the extent to which construction and operation of the facility will fail to conform with existing state and local laws, ordinances, by-laws, rules and regulations and reasonableness of exemption thereunder, if any, consistent with the implementation of the energy policies contained in this chapter to provide a necessary energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost; and
- (4) the public interest, convenience and necessity requiring construction and operation of the facility.

In order to ensure a complete review of a facility previously approved by the Siting Board in a proceeding under G.L. c. 164, § 69J, the Siting Board: (1) reviews the decision from

the underlying Siting Board proceeding; and (2) determines the extent to which new information has been developed or the circumstances of a project may have changed in the intervening period. Cape Wind at 13; KeySpan at 12. With respect to any issues raised by the state or local agency whose actions are the subject of the Application, the Siting Board confirms that such issues have been addressed in a comprehensive manner, either in its review of the facility under G.L. c. 164, § 69J or in its review under G.L. c. 164, § 69K. Id. If the issues raised by the state or local agency have already been comprehensively addressed by the Siting Board in prior proceedings, they will not be relitigated as part of the Section 69K certificate review. Alliance II, 457 Mass. at 694, n.42; Agawam, 437 Mass. at 829; see KeySpan at 12; Berkshire Power Development, 8 DOMSB at 291.

As described below, the Project satisfies each of these standards. Further, the relevant facts and circumstances represent subject matter that has been comprehensively addressed by the Siting Board in the earlier Section 69J proceeding. Accordingly, Eversource's Application for the Certificate should be approved.

1. The Project Is Needed

In accordance with G.L. c. 164, § 69H, the Siting Board is charged with the responsibility for implementing the energy policies enumerated in the statute, namely, to provide a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. In the initial Section 69J proceeding, after extensive investigation and consideration of the evidence, the Siting Board determined that the Project would be needed because Eversource and NEP demonstrated that the additional energy resources are needed to maintain a reliable supply of electricity to the Greater Boston Area. Eversource/NEP at 18. Further, the Siting Board found that "on balance the Project is superior to the other alternatives identified with respect to providing a reliable energy supply for the Commonwealth with

minimum impact on the environment at the lowest possible cost.” Eversource/NEP at 34. On this basis, the Siting Board concluded that the Project was needed in accordance with the statutory requirements of Section 69J. Additionally, in ruling on the Zoning Petition, the Siting Board found that the issuance of a comprehensive zoning exemption was needed to prevent “substantial public harm by serving to prevent a delay in the construction or operation of the” Project. See Eversource/NEP at 150. As explained by the Companies, the need for aspects of the Project existed before 2013, and the need is imminent. Id. (citing Companies Brief at 150; Exhs. JP-5, at 27-28; EFSB-N-17; EFSB-N-18). The Siting Board agreed, granting the Companies’ request for comprehensive zoning exemptions, and further found that the Project need was time sensitive. Id. at 151. Therefore, in accordance with the Siting Board’s statutory mandate and its previous factual findings, there is a clear need for the Project to meet the energy policies of the Commonwealth. G.L. c. 164, § 69O. See Cape Wind at 13-14; KeySpan at 39.

2. The Project Is Compatible with the Environmental Protection, Public Health and Public Safety Policies of the Commonwealth.

The Siting Board fully analyzed the compatibility of the Project with the Commonwealth’s policies concerning environmental protection, public health and safety during the previous Section 69J proceeding. G.L. c. 164, § 69J states that the Siting Board shall approve a petition to construct a facility if it determines that “plans for expansion and construction of the applicant’s new facilities are consistent with current health, environmental protection, and resource use and development policies as adopted by the Commonwealth.” The Siting Board’s statutory mandate requires it to review projects to “provide a necessary energy supply for the [C]ommonwealth with a minimum impact on the environment at lowest possible cost.” G.L. c. 164, § 69J. The Legislature has expressly determined that an adequate and reliable supply of energy is critical to the state’s citizens and economy. Id. Projects undergoing

Siting Board review must show that they have minimized environmental impacts consistent with the minimization of costs associated with the mitigation, control and reduction of the environmental impacts of such facilities. Id.

Eversource demonstrated throughout the initial Section 69J proceeding that the Project is consistent with the health, environmental protection and resource use and development policies of the Commonwealth. Eversource/NEP at 136-139, 154. As the Siting Board concluded, Eversource will comply with the state's health and environmental protection goals by satisfying applicable permit requirements and standards through its design, construction and operation. Eversource/NEP at 136-137. Indeed, the Siting Board affirmatively determined that the Project will contribute to a necessary energy supply for the Commonwealth at least cost and with the minimum of environmental impacts. G.L. c. 164, §§ 69J, 69H; Eversource/NEP at 136-139.

In order for the Siting Board to make these findings, Eversource (with NEP) was required to show that its project plans minimize environmental impacts, consistent with the minimization of costs associated with mitigation, control and reduction of environmental impacts of the Project. G.L. c. 164, § 69J; Eversource/NEP at 136-139. Accordingly, an assessment of all environmental impacts of the proposed facility and relevant state policies was systematically conducted by the Siting Board in the initial Section 69J proceeding to determine whether an appropriate balance would be achieved both among conflicting environmental concerns, as well as among environmental impacts and cost. Eversource/NEP at 136-139. A facility that achieves the appropriate balance between environmental impacts and costs meets the Siting Board's statutory requirements and is thus in accordance with the Commonwealth's policies. See Eversource/NEP, at 8, 72; NSTAR Electric Company d/b/a Eversource Energy, EFSB 16-2/D.P.U. 16-77, at 8, 32; NSTAR Electric, EFSB 04-1/D.T.E. 04-5/D.T.E. 04-7 at 52; Colonial

Gas, 14 DOMSB at 103-05.

As demonstrated throughout the initial Section 69J proceeding, the Project included specific plans (e.g., traffic management plans, a spill prevention control and countermeasures plan and a stormwater pollution prevention plan) to mitigate environmental impacts consistent with the minimization of costs. During its review process, the Siting Board evaluated all relevant environmental issues including, but not limited to, land use, wetland and water resources, traffic, noise, visual, magnetic fields, safety, air, and subsurface contamination. The Siting Board ultimately found, based upon the comprehensive factual record, that, with proposed mitigation measures, Eversource minimized land use impacts; wetland and water resource impacts; traffic impacts; noise impacts; visual impacts; magnetic fields; and safety, air, and subsurface contamination impacts. Eversource/NEP at 94-131.

Thus, the Siting Board has already approved the Project, finding that it is needed and that it will contribute to a reliable energy supply for the Commonwealth, with a minimum impact on the environment and at the lowest possible cost. See G.L. c. 164, § 69J; Eversource/NEP at 135-136, 143, 153. Therefore, the Project is compatible with the Commonwealth's policies concerning environmental protection, public health and safety. G.L. c. 164, § 69O; see KeySpan at 39.

3. The Project Conforms to Existing State and Local Requirements as Well as Provides a Necessary Energy Supply for the Commonwealth with a Minimum Impact on the Environment at the Lowest Possible Cost.

As described above, the Project conforms to existing state and local requirements and meets the Siting Board's statutory mandate of providing a necessary energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. The Project has been previously approved by the Siting Board consistent with the requirements of G.L. c. 164, § 69J. Further, in his November 6, 2015 certificate on Eversource and NEP's ENF,

the Secretary found that “[t]he ENF has sufficiently defined the nature and general elements of the project for the purposes of MEPA review and demonstrated that the project’s environmental impacts will be avoided, minimized and/or mitigated to the extent practicable” and that “no further MPEA review is required at this time.” Exh. EFSB-G-1(2) at 8. Accordingly, Eversource complies with the standards set forth in G.L. c. 164, § 69O. Regardless of the Woburn City Council’s claimed reasons for the denial, it is in direct conflict with the Siting Board’s determination from the initial Section 69J proceeding that the Project is needed, least cost and has the least environmental impact and that it conforms to the Commonwealth’s current health, environmental protection, and resource use and development policies. Eversource/NEP at 153-155. It is also in conflict with the MEPA Certificate issued by Secretary Beaton on November 5, 2015, which found that the Project complies with the state statutory requirements of MEPA. Therefore, the Project is consistent with existing state and local requirements and it is a necessary part of ensuring a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost.

4. The Public Interest, Convenience and Necessity Require Construction and Operation of the Project.

As discussed above, during its initial Section 69J proceeding, the Siting Board extensively reviewed need, cost, project alternatives, routing alternatives and environmental impacts of the Project. The Siting Board determined that the Project would contribute to a reliable energy supply for the Commonwealth with a minimum impact on the environment at the lowest possible cost. Eversource/NEP at 153-155. Accordingly, the Project is needed and compatible with considerations of environmental protection, public health and public safety; therefore, the public interest requires the construction and operation of the Project. The very essence of the Siting Board’s approval of the Project under G.L. c. 164, § 69J reflects that the

Project is needed to further the public interest in having a reliable, least cost and least environmental impact supply of electricity for the benefit of the citizens of the Commonwealth.

Relatedly, as part of the consolidated proceeding, the Siting Board also made a determination as to the Project's compliance with G.L. c. 164, § 72. Eversource/NEP at 152. Pursuant to G.L. c. 164, § 72, in order for a transmission line to be approved, it must satisfy the statutory standard that the proposed facility will "serve the public convenience and is consistent with the public interest." This is precisely the same standard that applies under G.L. c. 164, § 69O(4).¹² In Eversource/NEP the Siting Board examined: (1) the need for, or public benefits of, the proposed Project; (2) the environmental impacts of the proposed Project; and (3) any identified alternatives. Eversource/NEP at 152. Based on this analysis, the Siting Board determined that:

with implementation of the specified mitigation measures proposed by the Companies and the conditions set forth by the Siting Board in Section XII, below, **the Siting Board finds pursuant to G.L. c. 164, § 72 that the proposed transmission line is necessary for the purpose alleged, would serve the public convenience, and is consistent with the public interest.** Thus, the Siting Board approves the Section 72 Petition.

Eversource/NEP at 152 (emphasis added). Therefore, all of the statutory findings set forth in G.L. c. 164, § 69O relative to the issuance of the Certificate have been made during the Siting Board's prior proceeding regarding the Project. Accordingly, the public interest, convenience and necessity require construction of the Project.

¹² Similarly, when ruling on the Zoning Petition, the Siting Board examined whether the "present or proposed use is reasonably necessary for the public convenience or welfare...." Eversource/NEP at 142. The Siting Board found that the Project is needed to ensure reliability in the area of the Project, is superior to other approaches, and that the proposed facilities are sited in locations that minimize cost and environmental impacts. Id. at 143. The Siting Board found that the general public interest in constructing the Project outweighs the adverse local impacts, and that it is reasonably necessary for the convenience or welfare of the public. Id.

C. Upon Approval of the Initial Petition and Application, a Composite Certificate Should Be Issued by the Siting Board.

As demonstrated above, based upon the unambiguous provisions of the Siting Board's Certificate authority in G.L. c. 164, § 69K, as conferred by the Legislature, the Siting Board should grant Eversource the Certificate representing a composite of all remaining local permits required for the construction of the Project.¹³ See Cape Wind Associates, LLC, EFSB 07-8, at 30-35. Otherwise, construction of the Project would be prevented or unduly delayed to the detriment of electric system reliability, customer interests and the economy. The Legislature specifically contemplated this exact circumstance and provided the Siting Board broad powers to directly avoid such an outcome ("A [C]ertificate, if issued, shall be in the form of a composite of all individual permits, approvals, or authorizations which would otherwise be necessary for the construction and operation of the facility").¹⁴ G.L. c. 164, § 69K (emphasis added); see also 980 C.M.R. 6.05(3). In that regard, the Legislature was explicit that, upon the granting of the Certificate, "no state agency or local government shall impose or enforce any law, ordinance, by-law, rule or regulation nor take any action nor fail to take any action which would delay or prevent the construction, operation or maintenance of such facility." G.L. c. 164, § 69K (emphasis added); see also 980 C.M.R. 6.05(3). In enacting, Section 69K, the Legislature could not have been clearer. Under the exact circumstances presented here, a composite Certificate should be issued by the Siting Board. See Cape Wind Associates, LLC, EFSB 07-8, at 30-35.

Therefore, in order to implement the provisions of Section 69K, to promote administrative efficiency and to ensure consistency with the Siting Board's decision in its

¹³ As noted above, given the current status of its state permit applications, Eversource is not requesting that the Certificate include any state permits.

¹⁴ Significantly, the Legislature began the section regarding the Siting Board's grant of a comprehensive certificate with the proviso "Notwithstanding the provisions of any other law to the contrary." Given the clarity throughout Section 69K, there can be no doubt about the legislative mandate contained therein.

Section 69J proceeding in Eversource/NEP, Eversource seeks a Certificate representing a composite permit with respect to the Project. See Cape Wind Associates, LLC, EFSB 07-8, at 30-35. As outlined above, Eversource has filed applications with the appropriate permit-granting authority for each of the local permits that are currently outstanding (in addition to the Woburn GOL Petition and with the exception of street opening permits, which cannot be issued without approval of the Company's GOL applications), including:

1. a GOL application to the Town of Stoneham on December 19, 2017, on which the Town of Stoneham has taken no action;
2. a GOL application to the Town of Winchester on April 13, 2018, on which the Town of Winchester has taken no action; and
3. a Notice of Intent with the Winchester Conservation Commission on April 20, 2018, on which the Winchester Conservation Commission has not yet issued an Order of Conditions.

For each of these filed permits, the Company has diligently and in good faith complied with requests for additional information and responded to questions regarding the Company's various applications. Nonetheless, as of the date of this Initial Petition, the Company has not yet received approvals for any of the above-referenced permits.¹⁵

In addition, as noted above, certain of the currently-outstanding permits cannot presently be obtained. For example, because of the Woburn City Council's denial of a grant of location, the Company is unable to apply for, or receive, a Woburn DPW street opening permit. Similarly, because the Company does not yet have grants of location in Stoneham and Winchester, the Company is unable to apply for, or obtain, street opening permits in those two communities. Accordingly, Eversource has made diligent, good-faith efforts to secure all of its local permits

¹⁵ If the Company were to obtain any of these remaining local permits in an acceptable form during the pendency of this proceeding, the Company would be amenable to eliminating that local permit from its Certificate request once that permit becomes non-appealable and final in all respects.

and has taken reasonable actions to obtain these permits in light of the Woburn City Council's denial of Eversource's request for a Grant of Location. See G.L. c. 164, § 69L(4).

For all of these reasons, Eversource requires a Certificate from the Siting Board in the form of a composite of all local permits and approvals that would otherwise be required in order to authorize Eversource's construction and operation of the Project as previously approved by the Siting Board.

VIII. CONCLUSION

WHEREFORE, Eversource respectfully requests that the Siting Board approve this Application for a Certificate pursuant to G.L. c. 164, §§ 69K-69O. Without limiting the generality of the foregoing, Eversource requests that the Siting Board approve this Application and grant Eversource the Certificate of Environmental Impact and Public Interest for the Project with respect to:

1. A Grant of Location in public ways for the portion of the New Line located in the City of Woburn pursuant to G.L. c. 166, §§ 21-22;
2. A Grant of Location in public ways for the portion of the New line located in the Town of Stoneham pursuant to G.L. c. 166, §§ 21-22;
3. A Grant of Location in public ways for the portion of the New Line located in the Town of Winchester pursuant to G.L. c. 166, §§ 21-22;
4. The Company's Notice of Intent/Order of Conditions from the Winchester Conservation Commission, pursuant to G.L. c. 131, § 40; 310 C.M.R. 10.00, and the Winchester Wetlands Bylaw (Chapter 13);
5. A street opening permit in the City of Woburn, pursuant to G.L. c. 82A, § 1, and 520 C.M.R. 7.00, and the City of Woburn Bylaws (Title 12);
6. A street opening permit in the Town of Stoneham, pursuant to G.L. c. 82A, § 1, 520 C.M.R. 7.00, and the Town of Stoneham Bylaws (Section 13-15);
7. A street opening permit in the Town of Winchester, pursuant to G.L. c. 82A, § 1, 520 C.M.R. 7.00, and the Town of Winchester Rules and Regulations Governing Street Opening Permits and Grants of Location in the Town of Winchester, Massachusetts; and

8. Any other relief deemed necessary or appropriate by the Siting Board.

Respectfully Submitted,

**NSTAR ELECTRIC COMPANY d/b/a
EVERSOURCE ENERGY**

By its attorneys,



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